

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NEW WORLD SYSTEMS CORPORATION,

Plaintiff,

Case No. 2:06-cv-11603

Hon. Denise Page Hood

v.

CHAUNCEY JONES and TYLER
TECHNOLOGIES, INC.,

Magistrate Judge Virginia M. Morgan

Defendants.

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**AFFIDAVIT OF DAVID MATERNE IN SUPPORT OF
REPLY BRIEF IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION AND OTHER RELIEF**

David Materne, being first duly sworn, states:

1. I am of full age, am making this affidavit upon personal knowledge, and can testify competently to the facts set forth below.

2. I am the Vice President of Finance and Administration for New World Systems Corporation ("New World"), the plaintiff in the above-captioned matter.

3. From September 1998 to January 2006, New World employed Defendant Chauncey Jones as a sales representative in its Logos[®] division.

4. In the public sector software industry, a key part of a sales representative's job is to establish and maintain relationships with prospective customers so that he can, among other things, (a) develop a reputation for being knowledgeable about public sector software solutions; (b) develop a reputation for being trustworthy; and (c) ascertain a prospect's needs, both spoken and unspoken.

5. A key element in the sales process is often the sales representative's comparison of New World's product and services to the competitors' products and services.

6. A sales representative needs to find out that a prospect is interested in purchasing new software long before that fact becomes public knowledge.

7. A good sales representative does not simply wait for a city or county to decide to acquire new software; he creates a demand for the product that he is selling.

8. In the public sector software industry, a good sales representative will be marketing his product to a public entity long before the latter issues a Request for Proposal ("RFP") or Request for Information ("RFI"). By the time the prospect has put out an RFP or RFI, a substantial portion of the sales process has already taken place. In fact, the content of the RFP or RFI is often influenced by the sales representative's

efforts. A sales representative who sat back and waited until a public entity published an RFP or RFI would be at a considerable disadvantage compared to his competitors.

9. While the final price may be obtainable via Freedom of Information Act requests after the closing of a sale, New World's initial pricing of its software often depends on many factors which are not generally known to the public. New World compiles information regarding these factors in its ACT! marketing database.

10. New World's ACT! marketing database contains both information that is in the public domain (such as names, addresses, and phone numbers) and New World's proprietary information.

11. The proprietary information in the ACT! marketing database includes both the details of New World's contacts with customers and prospects, such as memoranda of calls and meetings, text of letters and e-mails, marketing campaign information and strategies, etc.

12. In addition, the ACT! marketing database contains information on New World's estimates regarding the budget available to its prospects.

13. New World's ACT! marketing database also includes the following non-public information:

- (a) The name(s) of the person(s) who will most likely be the decision-maker(s) for any purchase;
- (b) The identities of any other person(s) who will significantly influence the decision-maker(s);
- (c) Information with regard to the identities of prospects who intend to make a purchase and their purchase timelines;
- (d) The current computer software being used by a prospect;

- (e) The current computer hardware being used by a prospect;
- (f) The types of mailers/solicitations that have been sent to a prospect;
- (g) Where New World stands in the purchase process, if known;
- (h) Whether a product demonstration has been scheduled or conducted on site;
- (i) The type of RFI or RFP that may be used and its source, if known;
- (j) The names of other New World customers that were or could be used as references for a particular prospect; and
- (k) Notes of other relevant information obtained from New World's contacts with a prospect.

14. The data in New World's ACT! marketing database is set up so that it can easily be used to compile mailing lists and/or labels for mass mailing to prospective customers.

15. New World pays commissions to its sales representatives after it receives payment from the customer. New World has consistently paid Defendant Jones all commissions due to him in accordance with this policy.

16. Prior to the filing of New World's Complaint on March 22, 2006, Defendant Jones never asserted any claim with regard to unpaid commissions.

17. All eligible employees, including Defendant Jones, received their annual profit sharing contribution payments in March, 2006. New World made the profit sharing payments to the plan administrator, Merrill Lynch, promptly when due under the terms of the plan. New World never told Jones that it would withhold his profit sharing contribution, and Jones never asserted any claim to New World that his profit sharing was unpaid.

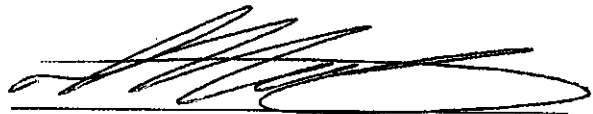
18. There are over 10,000 cities and counties in the United States. These cities and counties are under no obligation to participate in the Onvia DemandStar service. According to DemandStar's website, fewer than 600 cities and counties are currently registered with it. A company that relied solely on information obtained from DemandStar would be unable to compete successfully in the public sector software industry.

19. I have reviewed the records of sales consummated by New World's Logos[®] division in 2005. From New World's initial solicitation or contact with a customer until the date of closing, the average time elapsed was 39 months. The longest span from first contact to closing was 80 months.

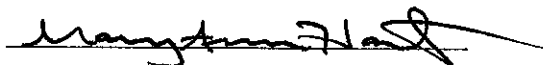
20. New World is not the only company in the public sector software industry that requires their employees to sign non-competition agreements.

21. I have reviewed the resume submitted by Jones to New World in 1998. None of the previous employers listed on Jones' resume directly compete with New World in the public sector software industry.

Dated: May 12, 2006


David Materne

Subscribed and sworn to before me
this 12th day of May, 2006.


MARY ANN HART
Notary Public, State of Michigan
County of Oakland
My Commission Expires Apr. 19, 2012
Acting in the County of Oakland